IN VACATION.

HOGS.—If a man's garden is rooted up and destroyed, he has the right to take some sow by the ear, and the proper sow to catch is the sow that has done the rooting. *Barger* v. *Hickory*, 130 N. Car. 550, 41 S. E. 708, per Douglas, J.

SAME.—When a valuable Chester boar is allowed the range and is devoted to the service of the public by his liberal owner, he is in no sense a nuisance. *Bost* v. *Mingues*, 64 N. Car. 44.

SOW V. CHICKEN.—"It is provoking to see an old sow trying to catch young chickens and snapping up one every now and then, in spite of the noise and energetic remonstrances of the hen, but it is not reason, and therefore not the law, that so valuable an animal may be destroyed to save the life of an unfledged chicken." *Morse* v. *Nixon*, 6 Jones L. (51 N. Car.) 293, per Pearson, C. J.

NUISANCE.—"As a rule, a jack is kept for one purpose only, and that is the propagation of his own species and mules. He has a loud, discordant bray, and, as counsel say, frequently 'makes himself heard, regardless of hearers, occasions, or solemnities.' He is not a desirable neighbor, The purpose for which he is kept, his frequent and discordant brays, and the association connected with him bring the keeping of him in a populous city or town 'within the legal notion of a nuisance.'" *Ex p. Foote*, 70 Ark. 12, 65 S. W. 706.

SNAKES.—Trained snakes are "implements, instruments, and tools of trade."—*Magnon* v. *U. S.*, 66 Fed. 151.

WILD BEASTS.—A wolf in sheep's clothing is not a sheep, but a wolf.—*U. S.* v. *Shapleigh* (C. C. A.) 54 Fed. 126.

APPEAL AND ERROR.—"Appellate courts are not devised as aids to counsel who either fail to properly prepare for trial, or to properly try their cases." *Schram* v. *Rudnick*, 76 N. Y. Supp. 891, per Greenbaum, J.

RECORD.—On appeal it is not sufficient that God knows a thing, but the record must show it. *Pence* v. *Lemp* (Idaho, 1895), 43 Pac. 75.

A judge's manner and accent can not be made a part of the record. *State* v. *Kerns*, 47 W. Va. 266, 34 S. E. 734.

An appellate court cannot consider the trial judge's tone of voice or expression of countenance. *Territory* v. *O'Donnell*, 4 N. Mex. 66, 12 Pac. 743, quoting Parker, C. J., in *Com.* v. *Child*, 10 Pick. (Mass.) 253.

REVERSIBLE ERRORS.—It is ground for reversal that the trial court erroneously decided a question "as transparent as the soup of which Oliver Twist implored an additional supply." *Searle* v. *Adams*, 3 Kan. 515, 89 Am. Dec. 598, per Crozier, C. J.

RIGHT, THOUGH WRONG.—Many steps in the reasoning of the trial judge may be defective and still his conclusion be correct, and the judgment may be affirmed upon a theory of the case which did not occur to the court that rendered it.

> "The pupil of impulse, it forc'd him along,
> His conduct still right, with his argument wrong,
> Still aiming at honor, yet fearing to roam,
> The coachman was tipsy, the chariot drove home."
>
> *Lee* v. *Porter*, 63 Ga. 345, per Bleckley, J.

REHEARING.—It is a terror to the upright judge to be charged in a petition for rehearing with decided wrong, and although the court will not complain of being compelled to demonstrate the correctness of its decision, it will expect counsel to apply the same rule to themselves and demonstrate that they are wrong. *Carmel Nat. Gas etc. Co.* v. *Small*, 150 Ind. 427, 47 N. E. 11, 50 N. E. 476.

RIGHT TO HAVE CASES ARGUED.—"Argument is not only a right, but a material one. It is not a mere ornamental fringe, hung upon the border of a trial. Trial, under our system, is a co-operation of minds—a grave and serious consultation over what should be done and how the end should be accomplished. The attorneys in the case are not mere carriers to bring in materials for constructing the edifice; they have a right, as representing the parties, to suggest where every important stone should be laid, and to assign reasons, drawn from legitimate sources, in support of their suggestions. Their reasons may be good or bad, but such as they are they should be heard and considered." *Van Dyke* v. *Martin*, 55 Ga. 466, per Bleckley, J.

DUTY OF COURT TO LISTEN AND COMPREHEND.—"There is no law or rule of practice which makes it reversible error for the court to fail to hear and comprehend the argument of counsel. The most attentive and observant court is not always able to accomplish that desirable end, even when the argument is addresed to itself." *State* v. *Burns* (Iowa, 1903), 94 N. W. 240, per Weaver, J.

RIGHT OF COUNSEL TO LIE ON FLOOR.—Counsel may, in the discretion of the court, be permitted to lie down on the floor and "hollo" at the top of his voice. *Owens* v. *Com.* (Ky.1900), 58 S. W. 422.